

Chapter from the Book

Al-Mawa'ithat ul-Hasana

The Present Rulers and Islam- are they Muslims or not?

(Chapter 2 from the Publication of Al-Firdous)

BY

SHAYKH OMAR AHMAD ALI ABD-A-RAHMAAN
(May Allah free him from the hands of the kuffar)

This is the Part 2 (out of the two parts). The original translation was of Brother Omar Johnstone, Taken from the publication of Al Firdous Ltd., which is the “Copy Right Owner”, I have re-edited this book which was published in the name ‘*The Present Rulers and Islam- are they Muslims or not?*’, to electronic format due to the importance of the issue in our Muslim Community and due to the increased propagation of the *murjiah* salafy *manhaaj*, sincerely, as a means of knowledge, to propagate al *Haqq* and for no means of profit –Abu Rauza

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the name of Allah the Most Gracious Most Merciful. Praise is to Allâh, Peace and blessings be upon the Messenger of Allâh.

Al-Mawa’ithat ul-Hasana

Shaykh Omar Ahmad Ali Abd-a-Rahmaan

A great confusion has arisen, either by accident or by design, in the course of discussions about the rulers of the Muslim world and their regimes. When is obedience to them required? When is it forbidden? When is patient enjoined and when is revolt obligatory? A large section of those who claim to be knowledgeable have inclined towards the rulers of our times, concealing what they know of truth and distorting discussion out of desire for this fleeting world and its wretched ephemeracy.

We shall embark then, by the grace of Allâh and His pleasure, upon a crystallisation of truth and clarification of the right path through these difficult matters, bearing thereby the responsibility which Allâh has placed upon the shoulders of the *Ulema*.

We have divided our research into two sections: In the first we will discuss types of rulers. These we have considered as belonging to four categories:

- The just Muslim
- The oppressive Muslim
- The heretical Muslim
- The non-Muslim

Each of these has his characteristic type of rule which we will discuss separately. Then we will examine the relevant *hadith* pertaining to each of them as well as the comments and judgments (*fataawaa*) of the *Ulema* finally summarizing their positions. In this fashion we will attempt to clarify and to distinguish between each of these four categories.

Omar Ahmad Ali Abd-a-Rahman

Part Two¹

وَمَنْ لَمْ يَحْكُمْ بِمَا أَنْزَلَ اللَّهُ

“And whosoever does not rule by what Allâh has revealed”

- **Introduction to the Shari’ah and the Muslim Ruler**
- **Disobedience to the divine writ**
- **Rejection of the divine writ**

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Introduction to the Shari'ah and the Muslim Ruler

So far we have examined four types of ruler, the Muslim just ruler the oppressive Muslim ruler, the heretical or *Mubtad'a* Muslim ruler and the kâfir ruler. The argument and the opinions surrounding each of these have been examined in the light of vast experience and deep understanding of some of our most brilliant *ulema* both past (*salaf*) and present (*khalaf*). But what then of the man who chooses to rule without regard to Shari'ah, to whom Allâh refers in the Qur'an with the words,

وَمَنْ لَمْ يَحْكُمْ بِمَا أَنْزَلَ اللَّهُ

“And whosoever does not rule by what Allâh has revealed...”

What does Ibn Abbas mean when he says كفر دون كفر? Could it be the ruler who abandons rule by what Allâh has revealed may be in a state of disobedience rather than rebellion?

In fact we find ourselves here before two types of ruler. “The first is the Muslim who, while ruling by the Shari'ah in most cases, diverges from it occasionally knowing full well that this is forbidden to him, and that it is a sin. The second is the ruler who claims to be a Muslim but refuses to rule by what Allâh has revealed preferring rather to rule according to legislation which he himself and other like him have devised and promulgated. This secular legal code is then imposed on the people in substitution of the Divine Shari'ah.

What is to be our attitude towards this and how should we understand it in the light of the Qur'anic verse,

وَمَنْ لَمْ يَحْكُمْ بِمَا أَنْزَلَ اللَّهُ فَأُولَئِكَ هُمُ الْكَافِرُونَ

“And whosoever does not rule by what Allâh has revealed, such are the disbelievers (*Kâfirûn*)”

What of the man who rules and founds his rule in Islam recognizing that he is but a servant of Allâh bearing a responsibility to establish His rule and to implement His

Shari'ah but who, out of human weakness, commits an act of disobedience and departs from this Shari'ah, who neither denies its authority nor attempts to replace it, who adopts no other creed nor code preferring it to the rule of Allâh, who does not legislate independently and who does not order others to follow his example?

Is he to be equated with the man who founds his rule upon the shifting sands of secular law, who does not rule by what Allâh has revealed and does not even acknowledge his own position as vice-regent, as a servant of Allâh? Is this man to be equated with the one who considers himself and others like him, whether they be party or parliament, organization or ideological movement, to be endowed with the sovereign right to legislate, like Allâh or in partnership with Him?

Of course these two are not the same. The first is clearly a Muslim who has fallen into error. He has diverged from the path of his Lord and left aside rule by what Allâh has revealed in an act of simple disobedience which is neither disbelief nor repudiation of the Shari'ah. It is he of whom Ibn Abbas have said,

“Those who follow him are not to be styled disbelieveers, his in not the disbelief which takes one out Islam, it id “*kufr dun kufr*”, a semblance of disbelief.”²

The second, however, is an enemy of Allâh and a kâfir. Indeed he seeks to make himself or others partners with Allâh, he even presumes to ascribe to himself divine qualities and attribute, for is not one of His qualities the determination of the Law? In the words of Allâh:

أَمْ لَهُمْ شُرَكَاءُ شَرَعُوا لَهُمْ مِنَ الدِّينِ مَا لَمْ يَأْذَنْ بِهِ اللَّهُ

“Or have they partners (with Allâh), who have made lawful for them in religion that which Allâh has not allowed?”³

Whoever does this is without doubt a kâfir and his is the major disbelief which reflects directly upon the community which he governs. He is a kâfir even though he may pray and fast and claim to be a Muslim; this is the opinion of the *ulema* upon which there is no divergence.

Once we all come to understand this point then we will no longer be set by the prattling of the ignorant nor the sophistry of the pundits, those high priest of *fitnah*

² Ibn Kathir, Tafsir al Qur'an al 'Athim, vol.2 p.91

³ As-Shura 42:21

who have sold their religion for power in this world, who would have us believe that this is still a point of contention (*ikhtilaf*). Their argument is as follows.

“Would you say that the Muslim ruler who abandons rule by what Allâh has revealed while clearly not denying the legitimacy of the Shari'ah nor attempting to replace it is disobedient though not necessarily a *kâfir*? ”

Your response may well be “Yes, it is disobedience rather than *kufr*, so long as he maintains that his authority to rule is dependent on his ruling in accordance with the Shari'ah.”

“But if he persisted in his disobedience, if it becomes habitual, what then, would he then become a *kâfir*? ”

“No, he is rather a corrupt Muslim. This is not *kufr* in the wider sense.”

“Of course, but this is only half of the picture. The man who, ruling by his *kufr*, replaces the Shari'ah with another law is in fact behaving in a disobedient fashion but, by persisting in his disobedience he has come to abandon rule by what Allâh has revealed in most, or indeed in all cases.”

“You see, he too is only a corrupt Muslim, certainly not a *kâfir*.”

“You must be joking. If you consider the source of legislation you will see that this is clearly *kufr*. This man has not simply abandoned the Shari'ah in one or two instances of disobedience but he has made himself a partner with Allâh Most High, the Glorious, the Sublime. He has left the Shari'ah of Allâh with the intention of legislating himself. He and others like him would draft their own law and give it precedence to the Shari'ah and by this act usurp the divine attribute of Legislator (*Al-Haakim*) hoping to acquire for himself and for others like him the sovereign right to rule, (by which) denying that this is the right of Allâh, Lord of the Worlds, for Allâh has said, “...Verily the *Hukm* is for none but Allah....”. Whoever replaces the Shari'ah is a *kâfir*, there is no disputing in the matter, *kufr* is his state, of this there can be not even a shadow of a doubt.”

Ahmad Shakir mentions, with relation to the report of Ibn Abbas regarding ‘*kufr dun kufr*’

‘*Those who follow him are not to be styled disbelieveers, his in not the disbelief which takes one out Islam, it is “kufr dun kufr”, a semblance of disbelief.*’

“Al-Hakim said “this means those who follow him are not to be styled disbelievers, his in not the disbelief which takes one out Islam, it is ‘*kufr dun kufr*’” Ath-Thahabi

supports and confirms al-Hakim in this. Some people although have taken these words out of context and used them wrongly⁴ to justify their position, claiming impudently to be people of knowledge while playing with words to distort their meaning in their eagerness to apologize for and to justify recourse to the secular law which has been imposed throughout the Islamic world.

Reference can also be made to an incident involving Abu Majlaz who once came into conflict with the *Ibadi* sect regarding a group of officials who had, either deliberately or in ignorance of the law, occasionally passed judgments in contradiction to the *Shari'ah*. Now the *Ibadi* are a sect of *Khawarij* who distinguished themselves with the assertion that whoever is the author of a major sin, or *Kabirah*, is by virtue of this act disbeliever. The *Ibadi* had called for the execution of these two officials on the grounds that they could be nothing other than *kuffar* since they had passed judgments contrary to the *Shari'ah*. To this end they unsuccessfully attempted to force Abu Majaz to support them. At-Tabari has reported both this incident and that of the abuse of Ibn Abbas' opinion as follows.

At-Tabari (12025) relates on the authority of 'Imranm bin Jadir that a group of people belonging to the Banu Amru bin Sudus, an Arab tribe, came to Abu Majaz asking "O Abu Majaz, have you heard the words of Allâh, exalted is He, saying 'And those who rule not by what Allâh hath revealed, they indeed are those who disbelieve' does He not speak the truth?"

"Indeed He does" came the reply.

"And have you heard the words of Allâh, exalted is He, saying 'And those rule not by what Allâh hath revealed, they indeed are those who oppress' does He not speak the truth?"

"Indeed He does" again he replied.

"And those rule not by what Allâh hath revealed, they indeed are those who corrupt' is this not so?"

"It is so" was his only reply.

⁴ Muhammad Qutb said, "Ibn Abbas has been wronged (oppressed) because he said what he said when he was asked about *Banee Umayah* and if they were ruling by other than what Allaah revealed. They (the *Khawarij*) asked, 'What do we say about them (*Banee Umayah*)?' No one has said the *Banee Umaayaah* were *Kuffar* because they used to rule with the *Sharee'ah* in the general lives of the people but they went away from it in some of the matters that had to do with their *Sultaaneeyah* either out of misunderstandings or due to their desires. However, they never made their disobedience a part of legislation that would oppose the *Sharee'ah* of Allaah. So Ibn Abbas said about them, 'It (the actions of *Banee Umayah*) is *Kufr dun Kufr*.' Would it even be possible for Ibn Abbas to say this about those whom erase the Islamic *Sharee'ah* from its origin and replace it with man-made laws?" ("Waq'iunah Al-Ma'asr" Pg. 334)

Then they asked, “O Abu Majlaz, do *they* rule by the revelation of Allâh?”

He said, “Islam is their religion and their obligation, thus they maintain and to it they call the people. Should they forsake anything of it then know that it is an offence against Allâh and all humanity.”

“By Allâh, they said. You make excuses for them!”

“You were the first to do so, he said. I know not why, having witnessed their offence, you did not rise up against them. This was the affliction of the Jews and the Christians before you, and so too of the idol worshippers.”

Then At-Tabari relates another incident (12026) and states that he is satisfied as to the reliability of its source, saying it is *Sahih*.

Our brother, Mohammad Shakir, commented on this saying, “Some people today are concerned to apologize for those in position of authority over us who have abandoned rule by what Allâh has revealed, be it in criminal, civil or commercial matters, who prefer the secular statues of the non-Muslims to the Law of Allâh to establish this as a kind of Shari’ah in the land of Islam. An examination of these two reports of At-Tabari should provide us with a good general view of the matter. The conclusion which we can draw from it is that neither the perpetrator of the act nor he who approves of it can immediately be dismissed as a disbeliever. It is not possible to consider these events without first knowing something of both the person who is being questioned and his interlocutors.

Abu Majaz Lahaq bin Hamid ash-Shaibani as-Soudousi was a partisan of Ali, may Allâh be pleased with him. His people, the Banu Shaiban, had been amongst Ali’s supporters both at the Battle of the Camel and at Siffin. On the day Ali accepted arbitration at *Siffin*, the *Khawarij* withdrew, and the Bin Thahal clan of the Banu Shaiban revolted against Ali. The people who came to Abu Majlaz were from the clan of Bani ‘Amru bin Soudous (who were mentioned in at-Tabari, reference 12025). They were with *Ibadi* sect as attested by At-Tabari (refer 12025). The *Ibadi* were a group of *Kharaji* extremists taking their name from their leader Abdullah bin ‘Ibad at-Tamimi. They were the most uncompromising of the *Khawarij* with regard to the Arbitration and the ‘disbelief’ of Ali, may Allâh be pleased with him. They claim that in accepting the arbitration Ali not acted in accordance with the revelation of Allâh. The position of Abdullah bin ‘Ibad was that whoever came to differ with the *Khawarij* was a disbeliever though no a ‘*mushrik*’. This may seem to be a small point but it was what distinguished the *Ibadi* from the rest of the *Khawarij* who held that whoever disagree with them were polytheist and had fallen into shirk.

The followers of Abdullah bin Ibad then split again from this second scism came the group who addresses Abu Majlaz. All of the *Ibadi* agreed that what separate them

from their opponents was their attitude to *Tawheed*. Saying that Allâh had made Faith or *Iman* to be an obligation they surmised that any major sin or “*Kabirah*” would be proof of both shirk and kufr and that the author of such a sin would be condemned to Hell for all eternity.

It is clear that those who asked Abu Majlaz about this matter were in fact attempting to force him to declare these officials to be kuffar since they had perhaps acted in disobedience to Allâh and infringed upon something which had been forbidden. Thus Abu Majlaz replied in the first instance (12025) that if they had abandoned any part of their religion then clearly it was a sin and in the second instance that if they were aware of what they were doing then they would be aware that it was a sin.

Once in place in its proper context it is easy to see that this has nothing to do with the situation facing us today, with the substitution of the Shari'ah of Allâh, with its replacement by laws which imposes upon the Muslims system of justice other than that of Allâh. This, in fact, is kufr and no Muslim should entertain the slightest doubt that those responsible for it and those who support it are in the same.

Today we are witnessing the complete abandonment of the Shari'ah and its replacement by laws which have no relation either to Qur'an or to the *Sunnah* of the Prophet ﷺ. Today any law derived from Islam is deemed to be null and void. Secular law has come to precedence over that which was revealed by Allâh. Some people now maintain that the Shari'ah is unsuited to our times, that its revelation was accomplished within any historical context which is no longer relevant. They claim that for this reason it has now become obsolete and that its continued enforcement would be anachronistic at best.

So what has this to do with the incident involving Abu Majlaz and the *Ibadi*? Their intention was to demonstrate a divergence between the actual political leadership and the leadership which is guided by the Shari'ah. In this example either the Sultan is ruling in ignorance of the Shari'ah or else he is aware of its provisions but is acting in disobedience to them. Disobedience is of course a sin and calls for penitence and the seeking of forgiveness. If the Sultan has ruled according to his conviction, differing in them with the totality of informed opinion, then his case would be as with anyone else who sought to rule by his own understanding leaving aside both the Book of Allâh and the *Sunnah* of His Messenger ﷺ, whether it be in the time of Abu Majlaz, before him or after him. The judgment upon him would be as with anyone else who had denied the authority of Shari'ah and given precedence to the law of the community of the disbelievers over that of the community of Islam. As regards the case of Abu Majlaz, this was never an

aspect of the problem which had been presented to him, so his words could not be applied to such a situation.

Clearly those who make preference to these incidents are seeking to establish a point of law, that obedience is still due to those who rule in contradiction to the Shari'ah. Taking events out of context they drew false conclusion from them. Their aim is to preserve the established order and to deceive the people into accepting a form of rule other than which Allâh has revealed and made obligatory upon His servants. The only possible verdict in the case of this Sultan is that he be called to repent since he has rejected Allâh's authority. If he persists in his arrogance and rejection of Shari'ah, aiming to replace it with some other law, then the Islamic response to uncompromising and unyielding kufr is well known to all who follow this religion.” Thus Mahmoud Mohammad Shakir has written.⁵

There should be no confusion between these two cases; the one of the ruler who replaces the Shari'ah with another law and the one of the Muslim who rules by the Shari'ah and maintains the necessity of its application, who has no plan or design to implement any kind of secular law but who does in fact abandon rule by what Allâh has revealed in an act of disobedience.

Let us consider the example of the man who, ruling by the book of Allâh, finds that his son has committed theft and out of pity for him he refrains from having his hand cut off. This is an instance of abandonment of the revelation of Allâh. It is disobedience in so far as he has refused to implement the Shari'ah, but he has not preferred any other law to it, nor did he make any new law of his own to apply to all cases of theft, imposing his own punishment in place of that prescribed by the Shari'ah. Had he done so, it would be replacement of the Shari'ah and clearly an act of disbelief. We will return to this theme again. But for the moment let us simply say that the Islamic position with regard to anyone who deliberately and wantonly denies the authority the Shari'ah is crystal clear.

⁵ Mahmoud Mohammad Shakir, 'Amda at-Tafseer, vol.4 pp.155-158

Disobedience of Divine Writ

Al-Qurtubi explaining the verse,

وَمَنْ لَمْ يَحْكُمْ بِمَا أَنْزَلَ اللَّهُ فَأُولَئِكَ هُمُ الْكَافِرُونَ

says that distinction should be made between the ruler who replaces the Shari'ah whilst maintaining that his authority is equal to it and the ruler who rules according to his wishes out of simple disobedience. The first is a *kâfir* but the second is a sinner who should seek forgiveness.⁶

Al-Qurtubi also relates that both Ibn Mas'oud and al-Hassan have said “Such is the case of anyone who abandons the rule by the revelation of Allâh be he a Muslim, a Jew or a disbeliever, he maintains that he may rule as he pleases and so he permits himself to do it. Any Muslim who does such a thing knowing that it is not permitted is corrupt and has no right before Allâh, if Allâh wishes he will punish him and if He wishes He will forgive him.”

Ibn Abbas mentions the same Hadith with a variant reading “His behaviour is that of the *Kuffar*”⁷

Ibn Kathir, in his explanation of the same verse relates that, “Ibn Tawoos said “He isn’t the same as someone who disbelieves in Allâh and his angles and His books and His Messengers” and and ath-Thauri as well has said that it is “a semblance of kufr and of oppression and of corruption”. Again, Tawoos says “This is not the kufr which to which they refer. This has been related on the authority of Ibn Hajar al-Askalani who said that while this does not appear in either *Bukhari* or *Muslim* it meets their criteria for *Sahih* hadith.”⁸

Ibn al Qayyam says that while rule by other than what Allâh has revealed is characteristic of the disbelievers the extent to which this applies to Muslims depends upon the state of the ruler, for if he believes that it is obligatory for him to rule by what Allâh has revealed yet he disobeys and in his disobedience he knows that Allâh’s right is to punish him, then this is “lesser disbelief”. If he says that it is not obligatory to rule by what Allâh has revealed and that in fact he can do better

⁶ Al-Qurtubi, *jami' alAhkam al Qur'an*, vol.2 p.87

⁷ *ibid.*

⁸ Ibn Kathir, *Tafsir al Qur'an al 'Athim*, vol.2 p.91

himself then this is “greater disbelief”. But if he is ignorant or acting in error then his action is mistaken and would be regarded as such.⁹

Ibn Abil Az points out that to rule by other than what Allâh revealed could be disbelief which will take out of Islam, it could be simple disobedience, or kufr great or small - as we have discussed above- and its precise nature depends upon the state of the ruler. If he believes that there is no obligation to rule by what Allâh has revealed, or that he could improve upon it, or if he belittles it knowing full well that it is from Allâh then this is *kufr* in the larger sense. If he recognizes the obligatory nature of the Shari'ah yet still does not apply it knowingly that his is an act which may be punished then his is an act of disobedience which may be called “excusable disbelief” or “lesser disbelief”. If he is ignorant of the Shari'ah and despite of his efforts to discover its guidance true understanding evades him then he is simply acting in error, his reward is for his effort to discover truth and his mistake would be forgiven.

⁹ Ibn al Qayyam, Midraj as Salikin, as Salikin vil.1 p.331

Rejection of Divine Writ

“Gingis Khan imposed upon the conquered nations a system of law known as the Yasaqq’. This law consisted of rulings culled from various other legal codes including those of the Jews, the Christians and of the various Islamic peoples. It superficially incorporated a diversity of legal systems, the result was a caricature of legality which eventually came to represent the basis of their law. They gave this law precedence over the Book of Allâh and the *Sunnah* of His Prophet ﷺ.

According to Yasaqq’, sexual outside marriage would be punishable by death regardless of marital status, sodomy likewise was punishable by death - as was intervention in a quarrel in order to assist one party against the other. A person who swam in standing water would be killed as would one who urinated in it. Death was the punishment for giving food or drink to a captive without the permission of ones family as well as to failure to return an escaped prisoner to custody. Tossing food to another rather than handing it to him brought death, failure to feed ones companions brought death, eating before a guest was served, whether he be a prince or a prisoner, brought death. Who failed to slaughter an animal other than by opening its breast and ripping out its heart bare handed would also be killed. Of course all of this is against the Shari’ah of Allâh revealed to the Prophets ﷺ.¹⁰

Al-Juraishi, speaking says, “Who turns from the Shari’ah of Allâh to another Shari’ah has equated the one with the other, he has likewise equated other gods or lords to Allâh because the determination of law (*hukm*) is God’s absolute right by virtue of the fact that this is one of His divine attribute (*al Haakim*). This is because it is not possible to reject any part of the Shari’ah other than a position of power or authority at least equal to, if not greater than, that of Allâh. Whoever does this has assumed such a position¹¹

The act of forbidding a thing and that of making a thing permissible both involve this deviation from the Shari’ah. For example, whoever rejects the illegality of

¹⁰ Ibn Kathir, Al Badayya wan Nahayya, vol.13, p.118

¹¹ I.e. applies or implements a law of his own, has assumed the position of an *Illah*.

intoxicants and consider than to be permissible has in fact permitted what Allâh has forbidden, and is not only guilty of kufr but also shirk. The true nature of his denial become clear ones he declares what is *haraam* to *halaal*. Denial of divine authority is naturally a part of this process. The prohibition of intoxicants is derived from both textual sources and from the universal consensus of the Muslims. If a new ruling were passed regarding it, abolishing punishment or suspending it, then the nature of the act in the eyes of the law would be changed, it would become *mubah*, that is to say not an offence. Since the question of its being forbidden would then be unresolved, it would fall into the category of things which are *halaal*. Finally we see that what Allâh has forbidden has become permissible.¹²

Sexual intercourse outside of marriage is like wise forbidden both by our textual sources and by universal consensus of the Muslims, but if a law were passed suspending its punishment, even in restricted cases, its effect would be to call into question the *haraam* nature of the act. Once this is done sexual acts outside marriage would become '*halaal*'.

A second aspect of this question of this problem concerns the modification of the law. In this case the nature of the law remains the same, that is to say, there is no movement from *haraam* or *halaal*, but there is a modification in so far as the response to the act is concerned. What Allâh has forbidden is still (in this case) regarded as forbidden, and it is still punished, but the punishment is some how changed, whipping becomes imprisonment for example. This could still be considered a form of rejection of divine authority since we cannot know the importance of a punishment which Allâh has prescribed for an act. Punishment is to be seen as a remedy for an ill, and Allâh is most knowledgeable (*al Alim*) of those who know.

To reject a direct Qur'anic ruling or to modify it, is in effect to take a thing which was permissible and to prohibit it, or to take a thing which was prohibited and to permit it. This act, according to the Qur'an, is *kufr* and *shirk*, because it results in abrogation of the Shari'ah.¹³

Ibn Kathir remarked with reference to Yasaaq', "All of this is at odds with the Shari'ah of Allâh which was revealed to all of the Prophets ﷺ. Then

¹² Authors note: This discussion revolves around the words *halaal*, *waajib*, *mandoub* and *mubah*. *Waajib*, *mandoub* and *mubah* are alla categories of *halaal* as attested in the books of *Usul al Fiqh*.

¹³ Ali Juriesha, *Usul as Shari'ah al Islamia*, pp22/23

whoever knowingly gives preference to man made secular law over that which was revealed to Muhammad bin Abdullah, the seal of the Prophets, is a kâfir. So what of those who preferred to rule by the Yasaaq'? Of course the Muslims are agreed (*ijmaa*) that whoever does such a thing is a *kâfir*. Allâh said,

أَفَحُكْمَ الْجَاهِلِيَّةِ يَعْنُونَ وَمَنْ أَحْسَنْ مِنِ اللَّهِ حُكْمًا لِّقَوْمٍ يُوقَنُونَ

“Is it a judgment (*hukm*) of the time of ignorance (*jaahiliyyah*) that they are seeking? Who is better than Allâh for judgment to a people who have certainty (in their belief)?”¹⁴

Allâh rejects whoever rejects his wisdom which encompasses all that is good and repels all that is evil. Whoever places his opinions and desires, or the customs of his people besides of the Shari'ah is like those who came before Islam and ruled according to custom, without guidance or knowledge, and who followed their own fleeting desires and dreams. Thus the Tartars ruled the kingdom forged by their leader, Gingis Khan, by the law which he gave them, the Yasaaq. To this law they gave precedence before that revealed by Allâh. Whoever does this is a kâfir. It is the obligation of the Muslims to oppose such a ruler by all necessary means, until they are returned to the rule of law ordained by Allâh and His Messenger ﷺ. His rule is intolerable if only for a day.¹⁵

Addressing this same point, a modern scholar, Ahmad Shaakir remarks, remarks “Can it be permitted within the Divine Shari'ah, that the Muslim rule by laws borrowed from the secular Europeans? This is indeed a law permeated with the whims and mistaken ideas of its promulgators, people who afford themselves the liberty to mix it and change it as they please. Whether this law is in agreement with the Shari'ah or diverges from it on a given point is a matter of total indifference to its authors. The Islamic position with regards to this is as clear as the day. This is kufr which boldly refuses its true nature. There can be no conceivable excuse for any Muslim, regardless of whom he is, who acts in accordance to it, submits to it or participates in its promulgation.”¹⁶

Muhammad Hamad Al-Faqeeh says with reference to Ibn Kathir's analysis, “.And like or (even) worse than this are the ones who take an alien (*Kuffar*) law to rule by in all matters, placing it before what he knows to be from Allaah and (the *Sunnah* of

¹⁴ Al-Ma'idah 5:50

¹⁵ Ibn Kathir, Tafsir al Qur'an al 'Athim, vol.4 p.171

¹⁶ Ahmad Shaakir Umdaat At-Tafseer Mukhtaasir Tafseer Ibn Katheer, vol.4 p.171

His) Messenger ﷺ. If a man persists in this and does not return to Shari'ah (*hukm* of Allah) then he is certainly a *kâfir* and an apostate (*mortad*). Any name he chooses for himself is without consequence and all of his public (outward) acts of prayer, his fasting, his hajj and so forth will be of no use to him.¹⁷

According to Yusuf al-'Atham, "This is really the state of affairs in the Islamic world today. How much can we see today of the Tartar law and the rule of Gingis Khan. Was it not that every leader then took his own law and every land chose its means of government substituting this for the Qur'an. Is this not precisely the evil of which Ibn Kathir has spoken."¹⁸

Imaam an-Nawawee relates, "When they asked, 'But should we not fight against them?' They were told so, 'Not so long as they keep the prayer.' This however should be placed in its proper context, that is to say that it is not permitted to revolt against Caliphs merely because of oppression or corruption so long as they have not changed any part of Shari'ah. According to al Qadi 'Ayad, 'The *ulema* are agreed that the Imamate cannot be conferred upon a *kâfir* and that should the Imaam apostise then he must be overthrown. Likewise they agree about heterodoxy. If he changes the Shari'ah or to introduce innovation to it then he would be exceeding his authority, obedience would no longer be owed to him. The duty of the Muslims would be to rise up against him in order remove and replace him with a just Imaam, so long as they are able to do so. If only a party of the Muslims are capable of carrying this out then, in the case of *kâfir* ruler, it would be incumbent upon them to do so though in the case of heterodoxy ruler there would be no obligation to revolt so long as there was no possibility of success. Any factor preventing success removes the obligation, but the response of the Muslims should then be to emigrate from their land in order to preserve their religion.'"¹⁹

Imaam an-Nawawee explains this further in his commentary of *Sahih Muslim*. "These word of al-Qadi 'Ayad render themselves to two possible readings- both of which depend upon the root كفر which maybe read as "kafara" or "kufrun". The first, a verb, means to apostise or to renounce ones religion and the second, a noun, means apostasy. From the second reading, "kufrun" we can understand that the obligation to revolt is conditional upon the actual changing of the Shari'ah and the apostasy in itself is not sufficient to warranty it. This is limiting in a number of ways and remains open to a variety of interpretation. It could mean that changing the Shari'ah is not the same as *kufr*, which in turn opens the possibility that, in order

¹⁷ Muhammad Hamad Al-Faqeeh *Hamish* (commentary) of *.Fat'h Al-Majeed*. P.397

¹⁸ Ismail al Kailani, *Fasl* and *Din 'an ad Dawla*, p.234

¹⁹ Imaam an-Nawawee, *Sharh Sahih Muslim*, vol.12 p.242

for revolt to become obligatory, the ruler must both change Shari'ah and also be *kâfir*. This contradicts the consensus of the Muslims which holds that revolt against the ruler is obligatory in the case of *kâfir* leader, no other condition being admissible. If this *were so* then the implication would be that revolt against a *kâfir* ruler may not always be permissible – regardless of the ruler was a Christian, a Jew, a Pagan or an apostate from Islam – as long as he ruled according to Shari'ah he could protect his position claiming that this fact has secured his right to rule. I cannot think of a more mistaken argument than this.

It is not permitted to rebel against the Caliphs merely because of oppression or corruption so long as they do not change any part of Shari'ah. That is to say changing the Shari'ah is itself justification for revolt with no further condition being placed upon it.

Finally, it has been argued to change the Shari'ah is an act of *kufr* and that it is obligatory for the Muslims to revolt against a leader who does this in order to remove him.

The option then are two, either the changing of the Shari'ah constitutes *kufr* and so calls for revolt, or it is not *kufr* but nevertheless the act of changing it requires revolt. The *ulema* are of the opinion that the act of changing Shari'ah constitutes *kufr* and necessitates revolt and Allâh is best informed of those who know.”²⁰

Ibn Hâjîr Al-Asqalaanî relates to us that “Ismâîl al-Qâdi has written in his “Ahkâm al-Qur’ân”, that whoever imitates those who devise systems of government which contradict revealed Truth or who take this as their guide as if it were itself religion would share the fate of those whom they imitate, it matters not whether they be governors or governed.” Then he cited the verse,²¹

وَمَنْ لَمْ يَحْكُمْ بِمَا أَنْزَلَ اللَّهُ فَأُولَئِكَ هُمُ الْكَافِرُونَ

Ibn Tâimiyâ was once asked about the case of a man who seized power by force of arms and so claimed a right rule, would his authority stand even though the scholars and *ulema* were opposed to him? He replied, “No one may govern either the Muslim or the *kufâr*, neither by consent nor by force, not a soldier nor a civilian nor anyone else, except by the law of Allâh and his Messenger ﷺ. This is made explicit by the verse,

²⁰ ibid. vol.12 p.242

²¹ Ibn Hâjîr Al-Asqalaanî, *Fâth al-Bârî*, vol.13, p.107

أَفَحُكْمُ الْجَاهِلِيَّةِ يَبْغُونَ وَمَنْ أَحْسَنْ مِنْ اللَّهِ حُكْمًا لِّقَوْمٍ يُوقَنُونَ

and also,

فَلَا وَرَبِّكَ لَا يُؤْمِنُونَ حَتَّىٰ يُحَكِّمُوكَ فِيمَا شَجَرَ بَيْنَهُمْ ثُمَّ لَا يَجِدُوا فِي أَنفُسِهِمْ حَرَجًا مِّمَّا قَضَيْتَ وَيُسَلِّمُوا تَسْلِيمًا

“But nay, by thy Lord, they will not believe (in truth) until they make thee judge of what is in dispute between them and find within themselves no dislike of that which thou decides, and submit with full submission.”²²

The Muslims must refer all disputes to Allâh and his Messenger. Whoever knowingly chooses another law and differs with that of Allâh and His Messenger is no different than Tartars who gave precedence to the Yasaaq over the Shari'ah. Whoever does such a thing has rejected both religion and justice and must in time be deposed.”²³

Ibn al-Qayyim points out that Abdul-Aziz al-Kailani said with reference to the verse

وَمَنْ لَمْ يَحْكُمْ بِمَا أَنْزَلَ اللَّهُ فَأُولَئِكَ هُمُ الْكَافِرُونَ

“And whosoever does not rule by what Allâh has revealed, such are the disbelievers (*Kâfirûn*)”, that “This is a complete abandonment of the revelation of Allâh and so the issue becomes one of *Tawhid*”,²⁴

Ibn Kathir said with reference to the verse,

وَإِنْ أَطَعْنُمُوهُمْ إِنَّكُمْ لَمُشْرِكُونَ

“And if you obey them, then you would indeed be *Mushrikûn* (polytheists, idolaters)”,²⁵

²² Nisa' 4:65

²³ Ibn Taimiyya, Majmou' al Fatawa, vol.35 p.407

²⁴ Ibn al Qayyim, Madraj as Salikheen, vol.1 p. 331

²⁵ Al An'am 6:121

Should any one turn away from command of Allâh and the Shari'ah and favour something else, then he would have put something else before Allâh. That this is shirk is clear from the verse,

اتَّخَذُوا أَحْبَارَهُمْ وَرُهْبَانَهُمْ أَرْبَابًا مِّنْ دُونِ اللَّهِ

They (Jews and Christians) took their rabbis and their monks to be their lords besides Allâh²⁶

Imaam at-Tirmithi explaining the same verse mentions a hadith on the authority of 'Adi bin Hatim who asked the Messenger of Allâh ﷺ, 'O Messenger of Allâh, what is that they worship?' to which he replied, 'Some have made lawful what was forbidden and prohibited what was lawful and others followed them in it, thus they worship those whom they follow.'²⁷

Al-Qurtubi says that some have understood the hadith of 'Abada bin as-Samit related earlier, 'Do not raise up against those who are in positions of authority over you unless you see disbelief manifest' to mean that a ruler may not be deposed except for kufr, or abandonment of prayer, or any other part of the Shari'ah.²⁸

According to Hamad bin Ali bin Ateeq an-Najdee the verse,

أَفَحُكْمُ الْجَاهِلَةِ يَبْغُونَ وَمَنْ أَحْسَنَ مِنْ اللَّهِ حُكْمًا لِّقَوْمٍ يُوقَنُ

Refer to such communities as the desert Arabs or Bedouins who governed themselves according to their ancient traditions and the practices of their forefathers. Their common law was called "shara' ar-rafiq". If any of them were to give their traditional law precedence over the Qur'an and Sunnah then it would be evidence of kufr. The Muslims would be required to struggle against them until they return to the rule of Allâh and His Messenger ﷺ. Ibn Taimiyya points out that 'There is no doubt but that whoever does not believe in the obligation to rule according to the Revelation of Allâh, is a kâfir. Whoever permits himself to rule a people according to what he thinks is just, without reference to the Revelation of Allâh is a kâfir. Indeed there is no nation which does not demand to be ruled with justice, but justice is contained in 'deen' and not in the opinions of even the greatest

²⁶ At-Taubah 9:31

²⁷ Ibn Kathir, Tafsir al Qur'an al 'Athim, vol.2 p.171

²⁸ al Qurtubi, Jami' al Ahkam al Qur'an, p. 232

of leaders. It is true that many who have styled themselves Muslim rule by their traditions which are not part of the Revelation, such was the case with desert Arabs before whose chiefs demanded obedience and were of the opinion that one should rule by tradition rather than by the Book of Allâh and the Sunnah. This is kufr. Although many submit to Islam they continue to be ruled by the ancient practice which their rulers impose upon them. Even if these rulers are told that it is not permitted for them to rule other than by the revelation of Allâh still they refuse, insisting upon a course which is at variance to the Revelation of Allâh. These are *Kuffar*.²⁹

Abdul Qadir ‘Auda comments that “Amongst the visible types of kufr is that represented by the current opposition to the Islamic law as a system of government and the substitution of the secular law in its stead. Some say that the Shari’ah does not concern itself with relations between the individual and the society, or between the government and the governed. They maintain that its application is not mandatory in every case, or to every issue, and that its provisions are not perpetually valid. Sometimes the claim is made that the Shari’ah is relevant only within a particular historical context, that its relevance to modern times is limited and that a secular legal system would be more suitable today. This premise is a challenge to divine authority, both the idea and those who support it are outside Islam.”³⁰

Sallah Dabous, explaining the legal position regarding the overthrow of a leader says, “The Khalifa makes apparent his desire to void an uprising by adhering clearly to the requirements of the Shari’ah in such a way as it insure that no one could believe that he is a *kâfir*, since a *kâfir* would have no claim to the obedience of the people. An important element in this is the distance which the person in authority enjoys from the affairs of the people. From his vantage point he should be able to prevent the ordinary citizen from accusing him of kufr. This is because the Prophet ﷺ enjoyed the Muslims to obey those in authority over them so long as they do not see clear evidence of kufr, as related in the hadith reported on the authority of ‘Ubaida bin as-Samit earlier. There is no reference in this hadith to *fitna*, but there can be no greater *fitna* than the apostasy of the Caliph, or of those in authority, and the estrangement of the community from Islam.”³¹

²⁹ an Najdi, Majmou’ at Tawheed, pp.306,307

³⁰ Abdul Qadi ‘Auda, at Tashri’ al jana’i, vol.2 p. 708-710

³¹ Salah Dabous, al Khalifatu tawliyyatuhu wa ghazlalu, p.373

Ali Juraishi points out that the worst kind of oppression is *shirk* and the one of its fundamental characteristics is to make permissible something which Allâh has forbidden.

32 أَمْ لَهُمْ شُرَكَاءٌ شَرَعُوا لَهُمْ مَا لَمْ يَأْذِنْ بِهِ اللَّهُ

According to the Qur'an those who rule by other than the Revelation of Allâh are oppressors, corruptors and disbelievers. Oppression and disbelief are joined together in secular law. The implementation of this secular law brings corruption in its wake.³³ Any rejection of religion is kufr, regardless of the extent of the rejection. To challenge the right of Allâh to legislate is to reject religion totally, this is precisely the same as challenging the right of Allâh to create. This challenge can be seen in the attempt to claim the right to establish fundamental or constitutional law. This is an absolute right of Allâh and so any claim against it must ultimately lead to kufr and shirk.

A distinction has been made between the total and the partial rejection of religion, that is between the total rejection of the Shari'ah and the rejection of only parts of it. The question was raised "Does this type of distinction not lead to *fitna*?" Juraishi replied "The total rejection of religion is *fitna* because it leads away from the straight path of Allâh. That *fitna* represented by the division of law into two domains, secular and religious³⁴, is more dangerous than the simple refusal to implement the Shari'ah, because it can bring a greater oppression by claiming that what is wrong is in fact justice, that what is harmful is wholesome. The people who see that the mosques are open may be misled by the cry of the muazzin which causes them to think that they are under the Shari'ah. But the Shari'ah demands comprehensive application. Of course the attempt to destroy religion totally represents the greatest *fitna*, but infinitely more treacherous is the process of its slowly and deliberately being undermined."³⁵

The substitution of another law for the Shari'ah is kufr, this has been made quite clear, it does not matter if one substitutes a complete legal code abolishing the Shari'ah or if one simply replaces part of the Shari'ah with some new laws. Substituting, '*istibdal*', is the act of giving human wisdom, making human reason

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³³ Ali Jureisha, *Usul as Shari'ah al Islamia*, p.99

³⁴ They call it 'Shari'ah and law'

³⁵ Ali Jureisha, *Usul as Shari'ah al Islamia*, p. 71,72

the central point of reference, for this reason it is kufr. Whenever this ‘*istibdal*’ raises its head, then it becomes obligatory to fight against it.

حَتَّىٰ لَا تَكُونَ فِتْنَةٌ وَيَكُونَ الدِّينُ كُلُّهُ لِلَّهِ

“Until there is no more oppression and the religion is totally for Allâh.”³⁶

This verse says all of religion, not part of it, so when a part of it is for some thing else, then we must fight.

Abdul-Qadir al-‘Auda has said that whoever refuses to implement the prescribed punishment for theft, or for bringing false accusation, or for zina because he prefers to apply some secular law instead , is without a doubt a kâfir.³⁷

Ibn al Qayyim said explaining the verse,

وَمَنْ لَمْ يَحْكُمْ بِمَا أَنْزَلَ اللَّهُ فَأُولَئِكَ هُمُ الْكَافِرُونَ

“The same sanction applies to the rescission of any part of the Shari‘ah as to that of the whole of it.”³⁸

Ibn Kathir adds that whoever does this is a kâfir whom it is obligatory to oppose until he returns to the rule of Allâh and His Messenger (صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ). It is intolerable that his ilk should rule Muslims even for a moment.³⁹

Ali Juraishi observes “If Allâh had declared that both He and His Messenger are in a state of war for just one act which abrogates the Shari‘ah, that is the act of permitting *riba* (interest), what then would be the response to one who had revoked many parts of it? Who is capable of sustaining a war against Allâh? The *ulema* are agreed that whoever abrogates any part of the Shari‘ah should be opposed. We do not know what our learned forefathers would say about those who forbid the implementation of the greater part of the divine law were they ever to be confronted with them. There is no disagreement as to the sanctity of the Jihad against whoever prohibits any portion of the Shari‘ah, the worst of these is the one who abolishes the Shari‘ah in its entirety, because this is *fitna*,

³⁶ Al-Anfaal 8:39

³⁷ Abdul Qadi ‘Auda, at Tashri’ al jana’i, vol.2 p. 709

³⁸ Ibn al Qayyim, Madraj as Salikheen, vol.1 p. 331

³⁹ Ibn Kathir, Tafsir al Qur’ân al ‘Athim, vol. 2 p.67

وَصَدَّ عَنْ سَبِيلِ اللَّهِ وَكُفْرٌ بِهِ وَالْمَسْجِدُ الْحَرَامُ وَإِخْرَاجُ أَهْلِهِ مِنْهُ أَكْبَرُ عِنْدَ اللَّهِ وَالْفِتْنَةُ أَكْبَرُ مِنَ الْقَتْلِ

“But to turn (men) from the way of Allâh, and to disbelieve in Him and in the Inviolable Place of Worship, and to expel His people thence, is greater sin with Allâh; for persecution is worse than killing.”⁴⁰

وَقَاتِلُوهُمْ حَتَّىٰ لَا تَكُونَ فِتْنَةٌ وَيَكُونَ الدِّينُ كُلُّهُ لِلَّهِ

“And fight them until *fitna* (persecution) is no more, and religion is for Allah”⁴¹

وَأَنْفَقُوا فِي سَبِيلِ اللَّهِ وَلَا تُنْقِوا بِأَيْدِيكُمْ إِلَى التَّهْلِكَةِ

“Spend your wealth for the cause of Allâh, and be not cast by your own hands to ruin.”⁴²

In conclusion it is perhaps important to point out that the Shari'ah is more than simply the imposition of the '*hudood*', that is the prescribed punishment for a given offence. If the aim of the Shari'ah is to be the general improvement and elevation of humanity then it must be seen to affect every aspect of both public and private life. It is concerned with the business transaction and economics, domestic and foreign policies, war and peace, as well as family relation, marriage, divorce and inheritance. A Muslim ruler must abide by its guidance in every aspect because it is divine guidance, it is the guidance of Allâh. If a ruler begins to tinker with it, to change it and to contradict it, then he is simply contradicting with what Allâh has ordained. He is, in fact placing his opinions and judgments above divine guidance. As we have seen, the Islamic position on this is quite clear.

It is not enough that a ruler simply applies the *hudood*, integrating them into a novel legal system of his own which stands, in fact, in contradiction to the Shari'ah in many ways. Some rulers would do so and then claim that their implementation of the *hudood* is ample evidence of their adherence to Islam. But where does this leave the rest of the Shari'ah? Are the *hudood* really all that is worthwhile in Islam? Should we be content to serve Allâh by observing the *hudood* and serve our rulers by observing their laws?

⁴⁰ Aal-‘Imaran 2:217

⁴¹ Al-Anfaal 8:39

⁴² Al-Baqarah 2:195

Ibn Kathir said that whoever does this, that is refuses to implement the Shari'ah in its entirety, is a kâfir against whom it is necessary to struggle until he returns to the rule of Allâh and His Messenger (صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ).

Conclusion

How could a Muslim be so bold, after all we have seen, as to replace even one part of the Shari'ah? How could a ruler claim to follow Islam and still do such a thing? Wouldn't he be aware that by giving preference to his own legislation over that of Allâh he would inevitably have excluded himself from the Islamic community? Allah has said,

أَفَحُكْمَ الْجَاهِلِيَّةِ يَبْغُونَ وَمَنْ أَحْسَنْ مِنْ اللَّهِ حُكْمًا لِّقَوْمٍ يُوقَنُونَ

Ahmad Shakir remarks, “Those objectionable people at the margins who associate themselves with Islam, and those who would like to be with them, would be asked, “Do you believe in Allâh and that He is the Creator?” to which they will say “Yes”. “And do you believe that He knows what was and what is, that he is most knowledgeable about creation, that he knows mankind, what is good for him and what is bad?” “Yes” they will say. “And do you believe that he sent Messenger Muhammad with guidance and true , and revealed to him this Qur'an in which there is guidance for mankind to set right by it both their religion and their worldly affairs?” To which they will reply “Yes”.

وَالسَّارِقُ وَالسَّارِقَةُ فَاقْطُعُوْا أَيْدِيهِمَا

“As for thief, both male and female, cut off their hand.”⁴³

And do you believe that this verse is truly from the Qur'an? To which they will say “Yes”. How much then will you ignore it? What then is your law?”⁴⁴

Those who claim to be Muslims cannot deny any of these things. It is common knowledge. The common people and their rulers, the educated and the ignorant, the cultured and the illiterate, all agree that these things are fundamental to Islam. Someone who denies any part of this has left Islam and must be perish in the mire of apostasy.

How could it be permissible for a Muslim to attempt to rule by secular law, to govern Muslims with it? Are they not aware of the verse,

⁴³ al Maidah 5:38

⁴⁴ Ahmad Shaakir Umdaat At-Tafseer Mukhtaasir Tafseer Ibn Katheer, vol.4 p.147

أَمْ لَهُمْ شُرَكَاءَ شَرَعُوا لَهُمْ مِنَ الدِّينِ مَا لَمْ يَأْذَنْ بِهِ اللَّهُ

“Or have they partners (with Allâh), who have made lawful for them in religion that which Allâh has not allowed?”⁴⁵

Ibn Taymiyya addresses this point when he says “It is not permitted that anyone should rule over any part of Allâh’s creation, be it amongst Muslims or *kuffar*, by agreement or by coercion, not over the army, and not over the poor, nor over anyone else except by the rule of Allâh and His Messenger صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ. Whoever chooses other than this, the words of Allâh of Allâh would apply to him.”⁴⁶

أَفَحُكْمُ الْجَاهِلِيَّةِ يَبْغُونَ وَمَنْ أَحْسَنُ مِنَ اللَّهِ حُكْمًا لِقَوْمٍ يُوقَنُونَ

Ahmad Shakir asks, “Would it then be permitted to any Muslim to adopt a new religion, or a new legal code, or to follow any judgement derived from outside of Islam, and to implement a thing such as *Yasaag* and thus reject the clear guidance of the Shari’ah?”⁴⁷

Mawdoodi explains the verse,

أَلَمْ تَرَ إِلَى الَّذِينَ يَرْعُمُونَ أَنَّهُمْ آمَنُوا بِمَا أُنْزِلَ إِلَيْكَ وَمَا أُنْزِلَ مِنْ قَبْلِكَ يُرِيدُونَ أَنْ يَتَحَكَّمُوا إِلَى الطَّاغُوتِ وَقَدْ أَمْرُوا أَنْ يَكْفُرُوا بِهِ وَيُرِيدُ الشَّيْطَانُ أَنْ يُضْلِلُهُمْ ضَلَالًا بَعِيدًا

“Hast thou not seen those who pretend that they believe that which is revealed unto thee and that which was revealed before thee, how they would go for judgement (in their disputes) to false deities when they have been ordered to abjure them? Satan would mislead them far astray.”⁴⁸

“This is clearly a denunciation of anyone who governs by law other than those contained in the Shari’ah as well as of any system of government which is not in agreement with the supreme authority of Allâh and which comes from outside the Revelation of Allâh.”⁴⁹

⁴⁵ As-Shura 42:21

⁴⁶ Ibn Taymiyya, *Majmou’ al Fatawa*, vol.35 p.408

⁴⁷ Ahmad Shaakir Umdaat At-Tafseer Mukhtaasir Tafseer Ibn Katheer, vol.4 p.147

⁴⁸ An-Nisa’ 4:60

⁴⁹ Maudoodi, *Islamic Government*

How is it then that the Muslims would be allowed to voluntarily adopt secular laws and base legal judgements upon them.

أَنْ يُضْلِلُهُمْ ضَلَالًاً بَعِيدًاً...

These courts which have been imposed by tyrants in order to judge, to order our affairs and to resolve our difficulties in a matter which is contradictory to our Faith in Allâh and His Revelation, can have no authority over us. In the view of the Qur'an, denial of the tyrant is as necessary as having faith in Allâh. To submit to Allâh and to the tyrant both is clearly *nifaaq* (hypocrisy).⁵⁰

Could it be permissible to then for the Muslims to submit these *mustabdal* rulers?

اتَّخِذُو أَهْجَارَهُمْ وَرْهَبَانَهُمْ أَرْبَابًا مِّنْ دُونِ اللَّهِ

Ibn Taymiyya relates, “those who take their priests and their monks to be lords, who follow them in permitting what Allâh has forbidden, and in forbidding what Allâh has permitted and know that they have changed the religion of Allâh, who believe that what Allâh has forbidden can become permitted and that what Allâh has permitted can become forbidden, are following human beings at the expense of religion. This is *kufr*. Indeed Allâh and His Messengers, صلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ, have called it *shirk*. Even though they do not bow down their heads to their leaders nevertheless they follow them and contradict religion in the full knowledge that this is a denial of Allâh, His Messenger and His Revelation, they are as much *mushrik* as those they follow.

Yet if they firmly believe in the Revelation, that Allâh has defined the prohibited and the lawful, but persists in following their leaders even though they know it is wrong to do so, then they are disobedient and should be regarded as such. This approach is confirmed by several hadith of the Prophet, صلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ, stating,

“Obedience is due to praiseworthiness” and,

“The Muslim is bound to ready service and obedience in what pleases him and in what displeases him so long as he is not ordered to sin” and,

⁵⁰ ibid.

“Creation is not bound to disobedience to the Creator”⁵¹

and finally, “Who orders you to disobedience of Allâh, do not follow him”⁵²

“Now we come to the prohibition of the lawful and the license of the prohibited which results from an effort to follow the Messenger. Though the effort is sincere, the truth of the matter is illusive. Such a case would not be punished by Allâh, indeed the people would be rewarded for their effort because by it they had sought to obey Allâh.”⁵³

Abu Bakr al-Jaza’iri has mentioned that “One of the manifestation of *Shirk* is submission to non-Muslim rulers and servility towards them. These people make legal what has been prohibited and prohibit what has been made legal. Obedience to them is acceptable only under compulsion for their rule is unjust and they should be depised and rejected. Surely choosing such rulers, supporting them beign content with them and maintaining their legitimacy is nothing less than *shirk*.⁵⁴

How should the Muslims persevere under these laws and under these? How can we divest them of power? Allâh has said,

وَقَاتِلُوهُمْ حَتَّىٰ لَا تَكُونَ فِتْنَةٌ وَيَكُونَ الدِّينُ كُلُّهُ لِلَّهِ⁵⁵

Imaam Malik has said that “Whoever prohibits any of the obligation of the Muslims before Allâh, can never be accepted by them, it is their duty to struggle against him until they remove him”.⁵⁶

Imaam an-Nawawee said “One of the obligations of Islam is to fight those who prohibit Zakat or Salat or any other of the obligation of Islam, whether their prohibition be few or many”.

Ibn Taymiyya said “Any party which abandons any part of the clear and ordered Shari’ah of Islam is to be the object of struggle. About this the Muslims are agreed, even though such people may pronounce the Profession of Faith. This is the consequence of their abandonment of the Shari’ah”.⁵⁷

⁵¹ Muslim and Bukhari

⁵² Muslim and Bukhari

⁵³ Ibn Taymiyya, *Kitab ul Imaan*, p.67 (Mohammad Yasin ed.)

⁵⁴ Abu Bakr al Jaza’iri, *Minhaj al Muslim*

⁵⁵ Al-Baqarah 2:193

⁵⁶ *Hukm at Taa’ifat il Mumtana’ati ‘an Shara’I il Islam*, thesis.

⁵⁷ Ibid.

اللهم اجعلنا منهم .. اللهم اجعلنا منهم .. اللهم اجعلنا منهم .. اللهم تقبل منا ، واتبـه
لـنا بـراءـة من الشرـك في صـحـائـف أـعـمـالـنـا .. خـالـصـاً لـوـجـهـكـ يـاـ عـفـوـ يـاـ كـرـيمـ ..
﴿عَلَى اللَّهِ تَوَكَّلْنَا رَبَّنَا افْتَحْ بَيْنَنَا وَبَيْنَ قَوْمَنَا بِالْحَقِّ وَأَنْتَ خَيْرُ الْفَاتِحِينَ﴾
اللـهم إـنـا نـشـهـدـكـ وـنـشـهـدـ مـلـاـنـكـتـكـ وـنـشـهـدـ جـمـيـعـ خـلـقـكـ أـنـا بـرـآـءـ مـنـ شـرـكـ الـقـانـونـ بـرـآـءـ
مـنـ أـهـلـهـ وـمـنـ كـلـ شـرـكـ ... اللـهمـ فـاـشـهـدـ ... اللـهمـ فـاـشـهـدـ ...

وـآـخـرـ دـعـوـاـنـاـ أـنـ الـحـمـدـ اللـهـ رـبـ الـعـالـمـينـ